

Filed 1/21/97

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

GEORGE WIFORD,

Petitioner - Appellant,

v.

BOBBY BOONE, Warden; ATTORNEY
GENERAL OF THE STATE OF
OKLAHOMA, sued as: Susan Loving,

Respondents - Appellees.

No. 96-5163

N.D. Oklahoma

(D.C. No. 94-CV-821)

ORDER AND JUDGMENT*

Before **ANDERSON, HENRY**, and **BRISCOE**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34 (a); 10th Cir. R. 34.1.9. This cause is therefore ordered submitted without oral argument.

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

This matter is before the court on George Wiford's application for a certificate of appealability. See 28 U.S.C. § 2253. In April, 1990, Wiford was sentenced to life imprisonment after pleading guilty to first degree murder. After exhausting state remedies, Wiford filed this, his first, 28 U.S.C. § 2254 petition for a writ of habeas corpus, alleging (1) that his detention center denied him access to Oklahoma case law and statutes, and (2) that he had received ineffective assistance of counsel, in that his attorney failed to call certain witnesses at his preliminary hearing, failed to have his competency evaluated, and failed to request a change of venue. The district court denied the petition. In his application to this court, Wiford raises only the ineffective assistance claim.

We may issue a certificate of appealability "only if the applicant has made a substantial showing of the denial of a constitutional right." Id. § 2253(c)(2). We have reviewed Wiford's application and the record before us. For substantially the same reasons expressed in the district court's order dated June 24, 1996, we conclude that Wiford has not made the showing necessary to warrant our issuance of a certificate. Therefore, we DENY his application and DISMISS the appeal.

The mandate shall issue forthwith.

ENTERED FOR THE COURT

Stephen H. Anderson
Circuit Judge